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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/730,665

12/08/2003

Leila Parker-Malchak

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EXAMINER

HAIDER, FAWAAD

ART UNIT

PAPER NUMBER

3627

MAIL DATE

DELIVERY MODE

01/25/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/730,665	Applicant(s) PARKER-MALCHAK, LEILA	
	Examiner FAWAAD HAIDER	Art Unit 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/29/2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 16 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. They seem to repeat themselves unnecessarily as in claim 16, "... for controlling the processor to identify... for controlling the processor to identify.." Claim 17 is similar to claim 16.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 6-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruppert et al (5,640,002) in view of Garwood (2003/0185948).

Re Claims 6, 11, 15-19: Ruppert et al discloses a processor (see Figure 3); a memory in connection with said processor and containing program instructions operative to control said processor (see Figure 3), a scale in communication with said

processor and operative to obtain a weight measurement of an item on sale placed on said scale (see col.11, lines 45-58, col.38, lines 7-23, see Figure 32); a means for determining the identification of the item at the weight scale; a scan error indicator in communication with the processor (see Figures 1 and 3); and a first radio frequency identification (RFID) tag antenna in communication with the processor, and focused on a bagging area of the terminal (see Figures 19, 26, 30, 31); the program instructions operative to control said processor to compare the stored and measured weights for the identified item and to actuate the first RFID antenna to verify the identification of the item if there is a perceived error in the weight of the item as measured by the scale (see col.38, lines 17-22, Figure 33); the program instructions further operative to control said processor to compare the item identification determined by the means for determining the identification of the item and by the first RFID antenna (see col.22, lines 30-37, Figures 19-20); and the scan error indicator only being actuated if the comparison of the identification of the item raises a discrepancy (see Figure 33).

However, Ruppert et al fails to disclose said memory further storing a weight learning database (WLDB) containing a list of predetermined weights for items on sale. Meanwhile, Garwood discloses containing a list of predetermined weights (see [1385]). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Ruppert's invention with Garwood's disclosure of predetermined weights in order to "determine price at the price of sale (see Garwood [0772])."

Re Claims 7, 13, 16: Ruppert discloses wherein the means for determining the identification of the item comprises a bar code scanner in communication with said processor (see Figures 1 and 3).

Re Claims 8, 14, 17: Ruppert discloses wherein the means for determining the identification of the item comprises a second RFID antenna, focused on the scale area of the terminal and in communication with said processor (see Figure 32).

Re Claims 9, 12: Ruppert discloses wherein said indicator comprises one of an audio device and a video device (see col. 20, line 61, col. 21, line 62, col.7, line 51, col.8, line 19, col.12, line 3, col.45, line 40, col.40, line 45, col.44, lines 10-27).

Re Claim 10: Ruppert discloses wherein the first RFID tag antenna is attenuated so as not to detect tags located at the scale (see Figure 32).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Silverbrook et al (2004/0199428) discloses a shopping receptacle with in-built user interface. Lapstun (2004/0195341) discloses symmetric data tags.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fawaad Haider whose telephone number is 571-272-7178. The examiner can normally be reached on Monday-Friday 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Ryan Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/F. Ryan Zeender/
Supervisory Patent Examiner, Art Unit 3627

Fawaad Haider
Examiner
Art Unit 3627

FIH